

Submitted March 10, 2012
Approved as of
Date March 10, 2012

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 02-12A
Thursday, February 16, 2012**

The City of Rockville Board of Appeals convened in a special session in the Mayor and Council Chambers at 7:00 p.m., Thursday, February 16, 2012.

PRESENT

**Steven Wilcox, Chair
Peter Mork
Stephen Ravas
W. Thomas Curtis, Alternate**

Absent: None

Present: Tom Moore, Council Liaison
Jim Wasilak, Chief of Planning
Bobby Ray, Principal Planner
Cindy Walters, Senior Assistant City Attorney

I. PUBLIC HEARING

Request for Reconsideration of Variance VAR2012-00029, 1208 Allison Drive – a request that the Board of Appeals reconsider their decision to deny the subject variance request, which was filed to allow an addition to an existing detached accessory building that would (1) exceed the total square footage allowed for accessory buildings on the lot and (2) exceed the allowed square footage for a single accessory building in the R-60 Zone. The Board heard the variance request on January 14, 2012.

Bobby Ray introduced the request for reconsideration.

Ms. Ana Erazo spoke on her behalf.

Mr. Mork moved, seconded by Mr. Ravas, to accept the reconsideration on the basis of inadvertence, that the omission of 9 Dale Drive might cause the Board to reconsider at least three of their findings in the variance under question, however, the Board did not find a mistake of fact or law with respect to precedent because they did not deny on the basis of precedent, they denied on the basis of the case itself and merely noted they could not allow the variance because that would establish precedent in a negative fashion. The

Board also did not find a mistake of fact or law in terms of clear legal definitions. They noted the peculiarity is at their discretion and that they exercised their judgment as allowed by law in that case. Finally the Board did not find in favor of the other Good Cause for the inconsistent and arbitrary nature of arguments. The Board agreed that the statements may have been somewhat unclear but that their findings were ultimately based on the negative impact as presented, due to excessive massing on the property. The motion passed in a vote of 3-0.

Mr. Wasilak mentioned that written notice must be provided to all parties of record within 15 days of the hearing date, and a date must be set for the reconsideration meeting. The Board agreed that the hearing date will be the next Board of Appeals meeting, scheduled for March 10, 2012.

II. ADJOURN

There being no further business to come before the Board, the Chair adjourned the meeting at 12:42 p.m.

Respectfully Submitted

Sandra Y. Driver, Commission Secretary